COMMENTS

Before this Response, claims 9-20 were allowed in a Notice of Allowance dated April 18, 2007. No claims are amended, canceled or added, and claims 9 and 15 are the independent claims. Applicant notes with appreciation that the Examiner has allowed the claims. These comments accompany the issue fee, as requested.

The Notice of Allowability mailed April 18, 2007 contains reasons for allowance that are improper, because they place unwarranted narrow interpretations on the claims. Applicant therefore traverses the reasons for allowance for at least the following grounds:

1) In the reasons for allowance, the Examiner states that the invention concerns "Applicant's system consisting of the following components … " (Notice of Allowability, p. 2, sec. 3). The Examiner misstates the plain terminology found in the claims, as the independent claims each use the open-ended claim term "comprising," specifically avoiding the closed terminology "consisting."

The Federal Circuit has recognized this distinction, noting that the word "comprising" transitioning from the preamble to the body signals that the entire claim is presumptively open-ended. See Innovad Inc. v. Microsoft Corp., 260 F.3d 1326, 1333 (Fed. Cir. 2001). "[T]he transition 'comprising' creates a presumption that the recited elements are only a part of the device, that the claim does not exclude additional, unrecited elements." Crystal Semiconductor Corp. v. TriTech Microelectronics Int'l, Inc., 246 F.3d 1336, 1348 (Fed. Cir. 2001). Applicant therefore notes that additional components are possible, and traverses the use of "consisting" in identifying the allowable material.

2) In the reasons for allowance, the Examiner further states that "[w]hen the terminal moves from the second subnet to the third subnet, only the second DNS server is updated with the change from the second subnet to the third subnet. The first DNS server in the first domain is NEVER updated with this change." (emphasis in original, Notice of Allowability, p. 2, sec. 3)

Applicant again traverses this characterization, as this terminology is imported by the Examiner, and not found in the claims. The claims do not state that "only" the second DNS

server is updated or that the first DNS server is "NEVER" updated with the change. Nor is this terminology included in the Applicant's Remarks from February 15, 2007, as asserted by the Examiner. Applicant specifically traverses the importation and application of the terms "only" and "never" to describe certain aspects of the claims. See also Crystal, 246 F.3d at 1348.

3) In the reasons for allowance, the Examiner further states that "[n]o updates ever occur between the second and third DNS servers." (Notice of Allowability, p. 2, sec. 3).

Applicant again rejects this characterization, as the terminology is again imported by the Examiner, and not found in the claims. The claims do not state that "no updates ever occur" between the second and third DNS servers. Applicant traverses this characterization, as well. See also Crystal, 246 F.3d at 1348.

4) In the reasons for allowance, the Examiner goes on to state that "[t]he second DNS server only updates the first DNS server when the mobile terminal moves from the first subnet in the first domain to the second subnet in the second domain. The second DNS server at no other time updates the first DNS server in the first domain." (Notice of Allowability, p. 2, sec. 3)

Applicant traverses this characterization as well, as the terminology is imported by the Examiner, and not found in the claims. The claims do not state that the second DNS server "at no other time" updates the first DNS server in the first domain. Applicant traverses the importation and characterization of this limitation, as well.

5) In the reasons for allowance, the Examiner concludes by stating that "[t]his unique method of selectively updating DNS servers within only three domains [note the third domain has no subnet present] is clearly distinguished over the prior art."

Again, returning to the issue of claim construction, the term "comprising" precedes the use of the terms "*first* domain," "*second* domain," etc., or "*first* subnet" and "*second* subnet" (emphasis added). Well established law at the Federal Circuit interprets the use of the term "comprising" to encompass subject matter beyond the listed components, noting that the addition of elements not recited in the claim cannot defeat infringement. Gillette v. Energizer Holdings, 405 F.3d 1367 (Fed. Cir. 2005). Applicant therefore notes that additional components are possible, and traverses the attempted incorporation of limitations not found in the claims.

The details within the Specification further support the above analysis. These comments, or any failure to comment, should in no way be treated as an acquiescence to the Examiner's statement. Applicant respectfully requests that no presumptions or inference of acceptance should be inferred.

CONCLUSION

Entry of these comments is permitted pursuant to 37 C.F.R. §1.104, and Applicant respectfully asks that they be entered.

Respectfully submitted,

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